

TAB Q

1

1 VOLUME 1

2 PAGE: 1-82

3 EXHIBITS: 1-9

## 4 UNITED STATES DISTRICT COURT

## 5 DISTRICT OF MASSACHUSETTS

6 CYCLE-CRAFT CO., INC. ) CIVIL ACTION

7 D/B/A BOSTON HARLEY-DAVIDSON/BUELL, ) NO. 11402NMG

8 PLAINTIFF, )

9 v. )

10 HARLEY-DAVIDSON MOTOR COMPANY, INC., )

11 AND BUELL DISTRIBUTION COMPANY, LLC, )

12 DEFENDANTS. )

13 )

## 14 DEPOSITION OF JASON MARASCA

15 DATE: APRIL 28, 2005

16 TIME: 10:06 A.M.

17 PLACE: BINGHAM MCCUTCHEON

18 150 FEDERAL STREET

19 BOSTON, MA 02110

## 20 MEDEIROS STENO &amp; VIDEO GROUP



21 "FOR THE TRAVELING LITIGATOR SINCE 1988"

22 \*Boston: 617.590.9767

\*Depositions

23 \*New York: 646.413.4499

\*Arbitrations

24 \*Florida: 305.321.7414

\*E-transcript

\*E-mail: depo@gomeiros.com

\*Video

\*MA \*CT \*NJ \*NY \*FL

1 A: Please.

2 Q: During 2003 did Lee Custom Cycle purchase  
3 eight new Harley-Davidson motorcycles from  
4 Cycle-Craft?

5 MR. REHNQUIST: Objection.

6 A: Yes.

7 Q: Were you the salesman on that deal?

8 A: Yes.

9 Q: And to the best of your knowledge did Lee  
10 Custom Cycle pay for those new Harley-Davidson  
11 motorcycles?

12 A: Yes.

13 Q: Did you negotiate the sales price?

14 A: Yes.

15 Q: With whom did you negotiate the sales  
16 price?

17 A: Jeff Christensen.

18 Q: Did you have an understanding as to what  
19 his relationship with the company Lee Custom was?

20 A: Yes.

21 Q: What?

22 A: Sales Manager, I believe.

23 Q: Was a sales price for the eight motorcycles  
24 arrived at?

1           **Q: How were you aware of Lee Custom Cycle?**

2           A: I've done business with Lee Custom Cycle in  
3         the past, sold them a couple of motorcycles.

4           **Q: While you were at Cycle-Craft?**

5           A: Yes.

6           **Q: To your knowledge had Lee Custom Cycle**  
7         **purchased, other motorcycles from Cycle-Craft besides**  
8         **the ones that you've identified?**

9           MR. REHNQUIST: Objection.

10          **Q: In other words, the eight on the deal that**  
11         **you had and then these others that you just**  
12         **mentioned?**

13          MR. REHNQUIST: Object to the form.

14          A: Yes. There was motorcycles before the  
15         eight.

16          **Q: Do you know how many?**

17          A: No.

18          **Q: Would you characterize Lee Custom as a**  
19         **regular customer of Cycle-Craft?**

20          MR. REHNQUIST: Object to the form.

21          A: Yes.

22          **Q: Do you have an understanding as to whether**  
23         **Mr. Buchbaum knew who Lee Custom Cycle was?**

24          MR. REHNQUIST: Object to the form.

1 A: Yes.

2 Q: How do you have that understanding?

3 A: That he knew that Lee Custom Cycle bought  
4 motorcycles?

5 MR. BERKOWITZ: Yes.

6 THE WITNESS: Because I gave him eight  
7 bills of sale that following morning with those eight  
8 motorcycles, individual bills of sales for eight  
9 motorcycles and the purchaser was Lee Custom Cycles.

10 MR. BERKOWITZ: We'll come back to that  
11 in a minute.

12 Q: As of the time that you first contacted Mr.  
13 Christensen about purchasing eight new motorcycles  
14 did you have an understanding as to whether Mr.  
15 Buchbaum knew who Lee Custom Cycle was?

16 MR. REHNQUIST: Object to the form.

17 A: I don't know if Ron knew Lee Custom Cycle  
18 existed, so I do not know that.

19 Q: After you spoke with Mr. Christensen did  
20 you write up bills of sale?

21 A: Yes, the following morning.

22 Q: Was this in July of 2003?

23 A: Yes, it was.

24 Q: And in whose name did you write up the

1       **bills of sale?**

2           A: Lee Custom Cycles.

3           **Q: Was this a single bill of sale or multiple**  
4       **bills of sale, one for each vehicle?**

5           A: One for each. Eight individual bills of  
6       sale.

7           **Q: And after you wrote them up what did you**  
8       **do, if anything?**

9           A: After I wrote the bills of sales up I went  
10      into Ron's office and showed him the eight bills of  
11      sale.

12          **Q: What did you tell him?**

13          A: "I sold eight bikes last night."

14          **Q: What did he say?**

15          A: "Good job."

16          **Q: Was there any further discussion?**

17          A: Yeah, I gave him the bills of sales and he  
18      said to call back Lee Custom Cycles and get eight  
19      individual names and put the individual names on the  
20      bills of sale.

21          **Q: Was there any further discussion in that**  
22       **conversation that you can recall?**

23          A: And he said, "Get eight different credit  
24      cards and run it for \$500.00 a piece for the

1 deposit."

2 Q: Anything else that you remember in that  
3 conversation?

4 A: No.

5 Q: What was the next thing that you did?

6 A: I called up Lee Custom Cycles and asked  
7 them to give me eight different names to put the  
8 motorcycles in.

9 Q: Was this Mr. Christensen?

10 A: That was Jeff Christensen, yes.

11 Q: What did you say to Mr. Christensen and  
12 what did he say to you?

13 A: I told him that he needed eight individual  
14 names for the bikes and I needed eight different  
15 \$500.00 deposits for them. He asked me why and I  
16 told him that that's what my manager wants to do.

17 Q: At the time did you have an understanding  
18 as to why Mr. Buchbaum asked you to do that?

19 A: I thought he was just making it hard for  
20 me.

21 Q: What happened next?

22 A: I got eight individual names and wrote them  
23 on the bills of sales.

24 Q: How did you get the names?

1           A: Mr. Christensen called me and gave me  
2 different names and faxed me over eight individual  
3 driver's licenses.

4           MR. BERKOWITZ: Let me back up a little  
5 bit and see if I have the chronology.

6           Q: **This all takes place in July of 2003?**

7           A: Yes.

8           Q: **And do you remember anything more specific**  
9 **than July of 2003? Do you remember dates?**

10          A: No, I don't.

11          Q: **After you went into Mr. Buchbaum's office**  
12 **with the original bills of sale written up in the**  
13 **name of Lee Custom Cycle, how long after that did you**  
14 **contact Mr. Christensen?**

15          A: Immediately.

16          Q: **How long after you contacted Mr.**  
17 **Christensen did he get back to you with names?**

18          A: I'm not quite sure. It was too long. A  
19 day or two maybe.

20          Q: **What happened to the original bills of sale**  
21 **written up in the name of Lee Custom Cycle?**

22          MR. REHNQUIST: Object to the form.

23          A: They were ripped up.

24          Q: **Who ripped them up?**

1           **Q: In what respect?**

2           A: I believe he bought a motorcycle off me a  
3       little before that, a brand new Sportster. I'm  
4       pretty sure he did.

5           **Q: As of the time that Mr. Christensen gave**  
6       **you these names had you spoken with any of these**  
7       **people reflected in Christensen exhibit 2 about**  
8       **purchasing any of the bikes reflected in that same**  
9       **exhibit, other than Mr. Christensen himself?**

10          A: Jeff was the only person I spoke to.

11          **Q: Was it your understanding that Lee Custom**  
12       **Cycle was buying these bikes as part of its business?**

13          A: Yes.

14          **Q: And was that something that you discussed**  
15       **with Mr. Christensen?**

16          A: No.

17          **Q: How did you arrive at that understanding?**

18          A: Because I knew he sold bikes so I figured  
19       since we had a good sale that he was going to try to  
20       make a profit on them. So I just thought that's the  
21       way it was going, but we never talked about it.

22          **Q: Did you have any discussion about this deal**  
23       **with Lee Custom with Mr. Bloom other than presenting**  
24       **him with the bills of sales and having him initial**